

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA., as  
assignee and subrogee of Destination XL  
Group, Inc.,

Plaintiff,

v.

KATIE PEREZ a/k/a  
KATIE CUNNINGHAM,

Defendant.

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Civil Action No. 19-cv-12507-ADB

**ORDER ON PLAINTIFF'S REQUEST FOR SANCTIONS**

BURROUGHS, D.J.

Plaintiff National Union Fire Insurance Company of Pittsburgh, PA (“Plaintiff”) filed suit against Defendant Katie Perez a/k/a Katie Cunningham (“Defendant”) alleging conversion, unjust enrichment, and fraud, and seeking \$203,877.77 in damages. [ECF No. 1].

The Court presumes the parties’ familiarity with the facts and procedural history of this case and relies on its statements of facts in the orders granting Plaintiff’s motion to compel and motion for civil contempt. [ECF Nos. 22, 25]. As relevant here, the Court granted Plaintiff’s motion for a default judgment, and, after Defendant did not respond to Plaintiff’s request for post-judgment discovery or comply with the Court’s order granting Plaintiff’s motion to compel such discovery (the “July 29, 2021 Order”), the Court granted Plaintiff’s motion to hold Defendant in civil contempt. [ECF No. 25]. At the Court’s request, Plaintiff filed a supplemental brief requesting sanctions for Defendant’s contempt. [ECF No. 26]. Plaintiff seeks sanctions in the form of (1)

incarceration or (2) \$100.00 per day until Defendant complies with the Court's July 29, 2021 Order. [Id.]. Defendant has not responded to Plaintiff's sanctions request, although the Court allowed her until December 22, 2021 to do so. [ECF No. 25 at 5].

"Civil contempt is a forward-looking penalty meant to coerce compliance rather than to punish past noncompliance." Hawkins v. Dep't of Health & Hum. Servs. for New Hampshire, Com'r, 665 F.3d 25, 32 (1st Cir. 2012). "[S]o long as a sanction is reasonably proportionate to the offending conduct, the trial court's quantification of it ought not to be disturbed." Goya Foods, Inc. v. Wallack Management Co., 344 F.3d 16, 20 (1st Cir. 2003). Here, a default judgment in the amount of \$208,902.01 has entered against Defendant and her complete non-compliance with the Court's post-judgment orders has thwarted Plaintiff's efforts to execute that judgment. Therefore, after considering the circumstances of this case, the Court finds that Plaintiff's request for a sanction of \$100.00 per day is reasonable.

Accordingly, the Court hereby ORDERS that:

- Defendant must pay a fine of \$100.00 per day for each day that she continues to refuse to abide by the Court's July 29, 2021 Order, [ECF No. 22], beginning on March 29, 2022.
- Plaintiff shall serve Defendant with a copy of this Order.

**SO ORDERED.**

March 28, 2022

/s/ Allison D. Burroughs  
ALLISON D. BURROUGHS  
U.S. DISTRICT JUDGE